

REMARKS

This is in full and timely response to the Final Office Action mailed on February 13, 2004. Reexamination in light of the amendments and the following remarks is respectfully requested.

Claims 22-28, 31-37 and 40-52 are currently pending in this application, with claims 22, 32 and 41 being independent.

No new matter has been added.

Entry of amendment

This amendment *prima facie* places the case in condition for allowance. Alternatively, it places this case in better condition for appeal. Accordingly, entry of this amendment is respectfully requested.

Prematureness

Applicant, seeking review of the prematureness of the final rejection within the Final Office action, respectfully requests reconsideration of the finality of the Office action for the reasons set forth hereinbelow. See M.P.E.P. §706.07(c).

Final Office Action not necessitated by amendment

The “second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement” (*emphasis added*). M.P.E.P. §706.07(a).

Within the non-final Office Action mailed on July 30, 2003, no prior art has been cited against previous claims 30, 39 and 48.

The Response to the Notice Of Non-Compliant Amendment (37 CFR 1.121) filed on November 20, 2003 includes an amendment that wholly incorporated previous claim 30 into independent claim 22 to form amended claim 22. As to previous claim 30, **no change in scope** was the result of this amendment since previous claim 30 has been presented in its entirety as amended claim 22. No additional amendment to claim 22 has been made.

The Response to the Notice Of Non-Compliant Amendment (37 CFR 1.121) includes an amendment that wholly incorporated previous claim 39 into independent claim 32 to form amended claim 32. As to previous claim 39, **no change in scope** was the result of this amendment since previous claim 39 has been presented in its entirety as amended claim 32. No additional amendment to claim 32 has been made.

The Response to the Notice Of Non-Compliant Amendment (37 CFR 1.121) includes an amendment that wholly incorporated previous claim 48 into independent claim 41 to form amended claim 41. As to previous claim 48, **no change in scope** was the result of this amendment since previous claim 48 has been presented in its entirety as amended claim 41. No additional amendment to claim 41 has been made.

But the Final Office Action includes new rejections applied to at least claims 22 (previous claim 30), 32 (previous claim 39) and 41 (previous claim 48) not previously made to claims 30, 39 and 48. Thus, the new rejection of claims 22, 32 and 41 made within the Final Office Action **is a new ground of rejection that is neither necessitated by applicant's amendment** of the claims nor based on information submitted in an information disclosure statement. Thus, the issuance of a Final Office Action at this time, instead of issuing a non-final Office Action, is **premature and improper**, as a result.

Withdrawal of the Final Office Action is respectfully requested.

Rejection under 35 U.S.C. §112

Claims 22-49 were rejected under 35 U.S.C. §112, for failing to include a “manufacturing substrate”.

The Office Action contends that the claims lack clarity since the “manufacturing substrate” has been claimed but has been removed. This rejection is traversed at least for the following reasons.

“For claim construction purposes, the description may act as a sort of dictionary, which explains the invention and may define terms used in the claims.” *General Electric Co. v. Nintendo Co.*, 50 USPQ2d 1910, 1914 (Fed. Cir. 1999).

The Office Action asserts that it is unclear how the “manufacturing substrate” has been claimed but has been removed. However, at least figures 1B and 2 of the specification as originally filed depict this feature. Nevertheless, while not conceding the propriety of this rejection and to advance the prosecution of the above-identified application, claims 22, 32 and 41 have been amended by replacing “substrate is removed ” with -- substrate is removable --.

The Office Action contends that “said first surface” found within claims 22, 32 and 41 lacks an antecedent basis. In response, while not conceding the propriety of this rejection and to advance the prosecution of the above-identified application, claims 22, 32 and 41 have been amended by deleting “said first surface”.

Withdrawal of this rejection and allowance of the claims is respectfully requested.

Rejection under 35 U.S.C. §103

Claims 22 and 24-26 were rejected under 35 U.S.C. §103 as allegedly being obvious over U.S. Patent No. 5,475,515 to Yoshinga et al. (Yoshinga) in view of Japanese Publication No. 11-265155 (Toshiba).

Claim 27 was rejected under 35 U.S.C. §103 as allegedly being obvious over Yoshinga in view of Toshiba and U.S. Patent No. 6,057,234 to Yamazaki.

Claim 28 was rejected under 35 U.S.C. §103 as allegedly being obvious over Yoshinga in view of Toshiba and U.S. Patent App. No. 2002/0164535 to Hoffend, Jr. et al. (Hoffend).

Claim 31 was rejected under 35 U.S.C. §103 as allegedly being obvious over Yoshinga in view of Toshiba and U.S. Patent No. 6,458,613 to Bae.

Claims 32, 34-35, 41, 43 and 44 were rejected under 35 U.S.C. §103 as allegedly being obvious over Yoshinga in view of Toshiba and U.S. Patent No. 5,189,549 to Leventis et al. (Leventis).

Claims 36 and 45 were rejected under 35 U.S.C. §103 as allegedly being obvious over Yoshinga in view of Toshiba, Leventis and Yamazaki.

Claims 37 and 46 were rejected under 35 U.S.C. §103 as allegedly being obvious over Yoshinga in view of Toshiba, Leventis and Hoffend.

Claims 40 and 49 were rejected under 35 U.S.C. §103 as allegedly being obvious over Yoshinga in view of Toshiba, Leventis and Bae.

These rejections are traversed at least for the following reasons.

Claim 22 and the claims dependent thereon include a product substrate and a thin film device,

wherein a manufacturing substrate is of an inorganic material,

wherein said product substrate is one of an organic material and a metal,

wherein said product substrate has a first side and a second side opposed to said first side,

wherein said manufacturing substrate is adjacent said first side, said manufacturing substrate being closer to said first side than to said second side,

wherein an adhesive layer is formed between said first side and said manufacturing substrate,

wherein said thin film device is adjacent said second side, said thin film device being closer to said second side than to said first side,

wherein said product substrate is between said thin film device and said manufacturing substrate, and

wherein said manufacturing substrate is removable for exposing said first side by leaving said product substrate and said thin film device.

Claim 32 and the claims dependent thereon include a product substrate and a pixel array,

wherein a manufacturing substrate is of an inorganic material,

wherein said product substrate is one of an organic material and a metal,

wherein said product substrate has a first side and a second side opposed to said first side,

wherein said manufacturing substrate is adjacent said first side, said manufacturing substrate being closer to said first side than to said second side,

wherein an adhesive layer is formed between said first side and said manufacturing substrate,

wherein said pixel array is adjacent said second side, said pixel array being closer to said second side than to said first side,

wherein said product substrate is between said pixel array and said manufacturing substrate, and

wherein said manufacturing substrate is removable for exposing said first side by leaving said product substrate and said pixel array.

Claim 41 and the claims dependent thereon include a product substrate and an electroluminescence device,

wherein a manufacturing substrate is of an inorganic material,

wherein said product substrate is one of an organic material and a metal,

wherein said product substrate has a first side and a second side opposed to said first side,

wherein said manufacturing substrate is adjacent said first side, said manufacturing substrate being closer to said first side than to said second side,

wherein said electroluminescence device is adjacent said second side, said electroluminescence device being closer to said second side than to said first side,

wherein an adhesive layer is formed between said first side and said manufacturing substrate,

wherein said product substrate is between said electroluminescence device and said manufacturing substrate, and

wherein said manufacturing substrate is removable for exposing said first side by leaving said product substrate and said electroluminescence device.

Yoshinga arguably teaches a liquid crystal device having a stretched porous polymer film impregnated with a low molecular weight mesomorphic compound. However, an adhesive layer formed between the first side of the product substrate and a manufacturing substrate is not found within Yoshinga.

While the Office Action contends that Yoshinga teaches product substrates 501, 501a, a manufacturing substrate that is removable for exposing the first side by leaving the product substrate is not found within Yoshinga. In this regard, the Office Action fails to identify an element within Yoshinga as a manufacturing substrate and further admits that a removable manufacturing substrate is absent from Yoshinga.

But the Office Action, nevertheless, contends that a removable manufacturing substrate is a product-by-process feature.

In response to this contention, “a product-by-process claim merely uses one statutory class of invention (i.e., process limitations) to define or fingerprint another statutory class (i.e., the product) which is not readily susceptible to definition solely by structure or physical characteristics.” *Ex parte Lyell*, 17 USPQ2d 1548, 1552 (Bd. Pat. App. & Int. 1990).

However, the features noted above are not process steps, but instead, are physical characteristic of the materials. Physical characteristics are not process steps. As a result, and the mischaracterization of the features noted above as product-by-process claims is improper. “All claim features must be considered.” *Ex parte Petersen*, 228 USPQ 217, 218 (Bd. Pat. App. & Int. 1985). Exclusion of the features noted above from consideration is, likewise, improper.

Toshiba arguably teaches a metal film formation on a substrate. However, an adhesive layer formed between the first side of the product substrate and a manufacturing substrate, and the manufacturing substrate that is removable for exposing the first side by leaving the product substrate are not found within Toshiba.

Yamazaki arguably teaches a method for fabricating a semiconductor device. Nevertheless, an adhesive layer formed between the first side and a manufacturing substrate, and the manufacturing substrate that is removable for exposing the first side by leaving the product substrate are not found within Yamazaki.

Hoffend arguably teaches a thermal mass transfer donor. Nevertheless, an adhesive layer formed between the first side of the product substrate and a manufacturing substrate, and the manufacturing substrate that is removable for exposing the first side by leaving the product substrate are not found within Hoffend.

Bae arguably a method for manufacturing a liquid crystal display using a selective etching method. The Office Action contends that Bae teaches an adhesive silicon film. Yet, an adhesive layer formed between the first side of the product substrate and a manufacturing substrate, and the manufacturing substrate that is removable for exposing the first side by leaving the product substrate are not found within Bae.

Leventis arguably teaches electrochromic, electroluminescent and electrochemiluminescent displays. But an adhesive layer formed between the first side of the product substrate and a manufacturing substrate, and the manufacturing substrate that is removable for exposing the first side by leaving the product substrate are not found within Leventis.

Withdrawal of these rejections and allowance of the claims is respectfully requested.

Conclusion

For the foregoing reasons, all the claims now pending in the present application are allowable, and the present application is in condition for allowance. Accordingly, favorable reexamination and reconsideration of the application in light of the amendments and remarks is courteously solicited.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone Brian K. Dutton, Reg. No. 47,255, at 202-955-8753 or the undersigned attorney at the below-listed number.

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Dated: April 13, 2004

Respectfully submitted,

By 

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